

REMARKS

This amendment is in response to the Office Action dated October 6, 2008. Claim 1 is amended. Claims 1 – 19 are in the application.

The objections to claims 5, 9, 11 – 14, 18 and 19 were addressed in the preliminary amendment of September 12, 2006.

The Examiner rejects claims 1 – 19 under § 112, second paragraph, as allegedly indefinite for the reasons given on pages 2 – 3 of the official action. Applicants respectfully traverse. While not acquiescing in the propriety of the rejection, claim 1 no longer recites the terms focused on by the Examiner. Thus, the amendment renders the rejection moot.

Applicants respectfully traverse the § 103 rejection of claims 1 – 19 as being unpatentable over Hopkinson et al.

The Examiner finds the claimed subject matter to be *prima facie* obviousness on the grounds that one of ordinary skill in the art would have been motivated to make such a suspoemulsion because Hopkinson suggest that the instant components are useful in making stable suspoemulsion formulations. However, Hopkinson does not specifically teach the suspoemulsion of the present claims.

Applicants respectively disagree with the Examiner that present invention is *prima facie* obviousness in view of Hopkinson. Although the components of the presently claimed suspoemulsion of the present invention are individually suggested by Hopkinson – this is only in the context of a substantial amount of boilerplate regarding suspoemulsion formulations which is included in the Hopkinson description. Accordingly, Applicants submit that there exists no reasonable expectation based on the teachings in Hopkinson that a subset of components can be combined in the manner suggested by the Examiner to arrive at the suspoemulsion of the present invention.

It is important to note that the suspoemulsion of the present invention is free from polymeric stabilisers – in other words the advance over the prior art afforded by the present invention is that there is provided a suspoemulsion formulation which, advantageously, does away with the need for

polymeric stabilisers. It can be seen from the teaching of Hopkinson (page 5, paragraph 61) that the use of polymeric stabilisers is clearly envisaged. Furthermore, with regard to the specific examples provided by Hopkinson it can be seen that polymeric stabilisers are employed (see polystyrene is included in Example 3.1 on page 7). Thus, Hopkinson teaches away from suspoemulsion formulations that are free from polymeric stabilisers – and does not specifically teach the technical solution which permits this.

Accordingly, it is submitted that the present invention represents a purposeful selection over the (very generic teaching) teaching of Hopkinson in order to solve a problem – the provision of a suspoemulsion formulation free from polymeric stabilisers - which is in no way envisaged by Hopkinson.

Reconsideration and withdrawal of the § 103 rejection of claims 1 – 19 are therefore respectfully requested.

In view of the above amendments and remarks, Applicants submit that present claims 1 - 19 are allowable over the cited art. Withdrawal of all rejections is respectfully requested, along with issuance of a Notice of Allowance.

Respectfully submitted,

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